

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COLONIAL AMERICAN CASUALTY
AND SURETY CO.,

Plaintiff,

v.

BAY COMMERCIAL CONSTRUCTION,
INC., et al.,

Defendants.

No. C 04-1714 PJH

ORDER OF DISMISSAL

Counsel for plaintiff, having advised the court in writing that the parties have agreed to a settlement of this case, IT IS HEREBY ORDERED that this cause of action is dismissed **without** prejudice; provided, however that if any party hereto shall certify to this court, within ninety (90) days, with proof of service thereof, that the agreed consideration for said settlement has not been delivered over, the foregoing order shall stand vacated and this cause shall forthwith be restored to the calendar to be set for trial.

The parties may substitute a dismissal **with** prejudice simply by submitting a stipulation and order for dismissal with prejudice within ninety (90) days.

SO ORDERED.

Dated: February 24, 2006



PHYLLIS J. HAMILTON
United States District Judge